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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PERSONALWEB TECHNOLOGIES, LLC,
AND LEVEL 3 COMMUNICATIONS LLC,

Plaintiff,

vs.

FACEBOOK

Defendants.

Case No 5:13-cv-01356 (EJD)

JOINT STATUS REPORT

1 By its January 13, 2014, Order Granting Defendants' Motions to Stay; Denying
2 Facebook's Motion to Dismiss without prejudice, the Court ordered that "[t]he parties in each
3 case shall submit a joint status report apprising the court of the status of the relevant review
4 proceedings on July 13, 2014, and every six months thereafter. These reports shall be filed as
5 separate docket entries on ECF/PACER." Doc. No. 55 at 12.

- 6 • Apple: On September 20, 2013, a defendant in another PersonalWeb matter (Apple,
7 Inc.) filed a petition with the PTO requesting review of various claims of the '310
8 Patent. Of these claims, the following are at issue in this case: '310 Patent: Claims 70,
9 81, 82, and 86. The Patent Trial and Appeal Board issued a Final Written Decision on
10 March 25, 2015 finding these claims unpatentable. On April 24, 2015, PersonalWeb
11 filed a request for rehearing of the Patent Trial and Appeal Board's Final Written
12 Decision regarding each of the challenged claims. The PTAB denied PersonalWeb's
13 request for rehearing. On September 30, 2015, pursuant to 35 U.S.C. §§ 142 and 37
14 C.F.R. § 90.2(a), PersonalWeb appealed these decisions to the Federal Circuit.
15 PersonalWeb filed its Opening Brief on March 8, 2016. Apple and the PTAB filed
16 their Opposition Briefs on June 17, 2016. PersonalWeb filed its Reply Brief on
17 August 19, 2016. The hearing before the Federal Circuit took place on January 12,
18 2017. On February 14, 2017, the Federal Circuit issued an opinion vacating the
19 PTAB's obviousness determination as to the appealed claims and remanding for
20 further briefing regarding obviousness. On July 12, 2017, both sides filed briefs on
21 remand. No further briefing or hearing is scheduled.
- 22 • Rackspace: On October 11, 2013, a defendant in another PersonalWeb matter
23 (Rackspace, Inc.) filed petitions with the PTO requesting review of various patents
24 and claims. On October 28, 2014, the PTO terminated these IPRs as to all parties as a
25 result of a joint motion to dismiss filed by Rackspace and PersonalWeb after
26 settlement between the parties.

- 1 • Unified Patents: On April 28, 2014, an entity not party to any of the PersonalWeb
2 actions – Unified Patents Inc., petitioned for IPR of the '791 patent and sought to join
3 its proceeding with the pending IPR concerning the same patent initiated by
4 Rackspace and described above. On July 24, 2014, the PTO denied institution of this
5 IPR.
- 6 • EMC and VMWare: On May 15, 2014, the Patent Trial and Appeal Board issued
7 decisions in the six IPRs instituted on May 17, 2013, finding all of the asserted claims
8 of the '791 Patent in this case invalid. On May 20, 2014, pursuant to 35 U.S.C.
9 §§ 142 and 37 C.F.R. § 90.2(a), PersonalWeb appealed all six of the Board's May 15,
10 2014, decisions to the Federal Circuit. On August 10, 2015, the Federal Circuit
11 affirmed the PTAB's rejections.
- 12 • Google/YouTube: On June 18, 2014, Google petitioned for IPR of various patents and
13 moved for "discretionary" joinder of the Rackspace IPRs described above. On
14 October 28, 2014, the PTO denied Google's request to institute new IPRs and for
15 joinder.
- 16 • Google/YouTube: On October 23, 2014, Google requested reexamination of claims 25
17 and 33 of the '662 patent [No. 90/013,379], and claim 125 of the '096 patent [No.
18 90,013,378]. The PTO declined to review claim 33 of the '662 patent. On April 23,
19 2015, the PTO issued a final rejection of claim 25 of the '662 patent. PersonalWeb
20 filed a notice of appeal to the PTAB on June 23, 2015. On August 30, 2016, the
21 PTAB affirmed the rejection of claim 25 of the '662 patent. On December 3, 2014,
22 the PTO granted review of claim 125 of the '096 patent. On July 2, 2015 the PTO
23 issued a final rejection of claim 125 of the '096 patent. On September 1, 2015,
24 PersonalWeb filed a notice of appeal to the PTAB. On September 28, 2016, the
25 PTAB affirmed the rejection of claim 125 of the '096 patent.
- 26 • Google/YouTube: On April 14, 2015, Google requested reexamination of claims 10,
27 15, 16, and 25 of the '280 patent [No. 90/013,487], the PTO granted this request. On
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July 27, 2015, the PTO issued a Non-Final Office Action rejecting claims 10, 15, 16, and 25 of the '280 patent. On November 25, 2015, the PTO issued a final rejection of claims 10, 15, 16, and 25 of the '280 patent. PersonalWeb filed a notice of appeal to the PTAB on or around January 25, 2016. On November 21, 2016, the PTAB affirmed the rejection of claims 10, 15, 16, and 25 of the '280 patent; however, on February 3, 2017, the PTAB vacated the November 21, 2016 affirmance. A hearing on the merits of the '280 patent reexamination was then held before the PTAB on May 25, 2017. In August 2017, the PTAB reversed the Examiner's rejection of the challenged claims of the '280 patent and issued a new ground of rejection for two of the challenged claims. On June 21, 2018, the USPTO issued a Notice of Intent to Issue A Reexamination Certificate, in which claims 10 and 25 are canceled, and the patentability of claims 15 and 16 is confirmed.

In light of the current status of the relevant review proceedings, neither party requests to lift the stay at this time.

Dated: July 13, 2018

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